

REMARKS

The present response is a response to the Office Action of December 14, 2004. A previous Office Action of November 2, 2004 was mailed to Applicant's representative. The Office Action of November 2, 2004 did not include a length of time for response. Per a telephone conversation with the Examiner Hogan to clarify the time for response, Examiner Hogan stated that a new Office Action would be mailed. The new Office Action, the Office Action of December 14, 2004, had different rejections than the Office Action of November 2, 2004. Consequently, the present response only addresses the statements of the Patent Office from the later issued Office Action of December 14, 2004 and respectfully traverses all statements of the Office Action of November 2, 2004.

Claims 1, 3, 4, 6, 7, 10-14, 16, 17, 24-29, 31, 32, 39-43, 45, 46, 53 and 54 are pending. Claims 1, 3, 12, 27, and 41 are currently amended. Claims 2, 5, 8, 9, 15, 18-23, 30, 33-38, 44 and 47-52 have been canceled without prejudice.

Elections

Applicant respectfully traverses the Patent Office's assertion that the invention contains multiple distinct species. However, in an effort to hasten prosecution, Applicant would like to affirm the election made during a telephone conversation on October 18, 2004 regarding a provisional election with traverse to prosecute the invention of Species 1, claims 1, 3, 4, 6, 7, 10-14, 16, 17, 24-29, 31, 32, 39-43, 45, 46, 53 and 54.

Drawings

The Patent Office objected to the drawings under 37 CFR 1.83(a) for failure to show every feature of the invention specified in the claims.

Applicant respectfully traverses this objection. However, the drawing objections are now moot as a result of cancellation of claims in question.

Claim Rejections - 35 U.S.C. § 102(b)

The Patent Office rejected claims 1-2, 10, 21, 24, 26-27, 36 and 39-40 under 35 U.S.C. 102(b) as being anticipated by Serbousek et al., U.S. Patent 3,508,709 (Serbousek).

Applicant respectfully traverses. The present invention relates to a pressure washer assembly with a surface cleaner. The surface cleaner includes a guide, wherein the guide allows for one-handed operation while substantially maintaining a distance from the spray nozzle to the surface. Advantageously, the distance from the spray nozzle to the surface may be adjusted utilizing different guide positions; wherein, secured in a guide position, the distance from the spray nozzle to the surface is substantially maintained while in operation.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *W.L. Gore & Assocs. v. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). Further, “anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)). Emphasis added.

Applicant respectfully submits claims 1 and 27 include elements that have not been disclosed by Serbousek. For example, claim 1 recites providing, “a pressurized fluid stream that intersects the axis of rotation of the wheel, while the spray nozzle distance from the surface is adjustable.” Similarly, claim 27 recites, “at least one spray nozzle is aligned to intersect the axis of rotation of the wheel while the spray nozzle distance from the surface is adjustable.” The Patent Office points to Fig. 2 in Serbousek which it states, “shows an embodiment where, by adjusting the position of the sleeve (35) along the pole (1), the nozzles are lifted to a position centered over the axis of the wheels, thereby creating a scenario in which the spray will intersect the axis.” However, this

configuration is distinguishable from Applicant's configuration, whereas it does not permit the distance from the spray nozzles to the surface to be adjustable while the spray nozzles intersect the axis of rotation of the wheels. In fact, the position noted by the Patent Office employing Serbousek is not ideal because the axle (A), connecting the wheels (31) to the link (33), would interrupt the fluid stream of any sprayer located between the wheels before the stream reached the surface, creating undesirable and inconsistent disbursement of the stream onto the surface.

Consequently, elements of claims 1 and 27 have not been taught, disclosed or suggested by Serbousek. Under *Lindemann*, a *prima facie* case of anticipation has not been established for claims 1 and 27, thus claims 1 and 27 are believed allowable. Claims 10 and 24 are believed allowable due to their dependence upon claim 1. Claim 39 is believed allowable due to its dependence upon claim 27.

Claim Rejections - 35 U.S.C. § 103(a)

The Patent Office rejected claims 3-7, 11-17, 25, 28-32, 41-46, 50 and 53-54 under 35 U.S.C. § 103(a) as being unpatentable over Serbousek et al., U. S. Patent 3,508,709 (Serbousek) and in view of Bresnen, U. S. Patent 4,489,251 (Bresnen).

Applicant respectfully traverses this rejection. Claim 41 is believed allowable for similar rationale as claims 1 and 27, as Bresnen fails to cure the defects of Serbousek as previously described with respect to claims 1 and 27. Claims 3, 4, 6, 7, 11-14, 16, 17, 25, 28-29, 31, 32, 42, 43, 45, 46, 53 and 54 are believed allowable due to their dependence upon an allowable base claim.

CONCLUSION

In light of the forgoing amendments, reconsideration of the claims is hereby requested, and a Notice of Allowance is earnestly solicited.

Dated: March 2, 2005

Respectfully submitted,



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